
By: **Delegates Hixson, Bozman, C. Davis, Gordon, Healey, Howard, Marriott,
and Patterson**

Introduced and read first time: January 29, 2004

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Expensing of Section 179 Property - Decoupling from Federal**
3 **Changes**

4 FOR the purpose of providing certain modifications to federal adjusted gross income
5 of an individual or federal taxable income of a corporation for Maryland income
6 tax purposes for certain deductions for the cost of certain property treated as an
7 expense for federal income tax purposes; providing for the application of this
8 Act; and generally relating to certain modifications for Maryland income tax
9 purposes for certain deductions for the cost of certain property treated as an
10 expense for federal income tax purposes.

11 BY repealing and reenacting, without amendments,
12 Article - Tax - General
13 Section 10-108 and 10-310
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 2003 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Tax - General
18 Section 10-210.1
19 Annotated Code of Maryland
20 (1997 Replacement Volume and 2003 Supplement)

21 Preamble

22 WHEREAS, In 2003 the U.S. Congress enacted the federal Jobs and Growth Tax
23 Relief Reconciliation Act of 2003, (P.L. 108-27), including a provision amending
24 Section 179 of the Internal Revenue Code to increase the maximum aggregate costs
25 that a business may deduct as an expense under Section 179; and

26 WHEREAS, The Maryland Comptroller of the Treasury reported to the
27 Governor and the General Assembly that the application of the amendment to Section
28 179 of the Internal Revenue Code to the determination of Maryland taxable income

1 for tax year 2003 would result in a decline in State income tax revenues for fiscal
2 2004 of more than \$5 million; and

3 WHEREAS, As a result of the Comptroller's determination, in accordance with §
4 10-108 of the Tax - General Article of the Annotated Code of Maryland, the
5 amendment to Section 179 of the Internal Revenue Code under P.L. 108-27 does not
6 affect the determination of Maryland taxable income for any taxable year that began
7 in calendar year 2003; and

8 WHEREAS, The General Assembly intends to permanently decouple the
9 Maryland income tax from the amendment to Section 179 of the Internal Revenue
10 Code under P.L. 108-27; now, therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Tax - General**

14 10-108.

15 (a) Except as provided in subsection (c) of this section and unless expressly
16 provided otherwise by law, an amendment of the Internal Revenue Code that, for a
17 taxable year that begins in the calendar year in which the amendment is enacted,
18 affects the determination of federal adjusted gross income or federal taxable income,
19 does not affect the determination of Maryland taxable income under this title for any
20 taxable year that begins in the calendar year in which the amendment is enacted.

21 (b) Within 60 days after an amendment of the Internal Revenue Code is
22 enacted, the Comptroller shall prepare and submit to the Governor and, subject to §
23 2-1246 of the State Government Article, the President of the Senate and the Speaker
24 of the House a report that outlines:

25 (1) the changes in the Internal Revenue Code; and

26 (2) the impact of those changes on State revenue and on various classes
27 and types of taxpayers.

28 (c) Subsection (a) of this section does not apply to an amendment of the
29 Internal Revenue Code if the Comptroller determines that the impact of the
30 amendment on State income tax revenue for the fiscal year that begins during the
31 calendar year in which the amendment is enacted will be less than \$5,000,000.

32 10-210.1.

33 In addition to the modifications under §§ 10-204 through 10-210 of this
34 subtitle, to determine Maryland adjusted gross income of an individual:

35 (1) an amount is added to or subtracted from federal adjusted gross
36 income to reflect the determination of the depreciation deduction provided under §
37 167(a) of the Internal Revenue Code and the adjusted basis of property without

1 regard to the additional allowance under § 168(k) of the Internal Revenue Code;
2 [and]

3 (2) an amount is added to or subtracted from federal adjusted gross
4 income to determine the net operating loss deduction allowed under § 172 of the
5 Internal Revenue Code without regard to the special 5-year carryback period
6 provided under § 172(b)(1)(h) of the Internal Revenue Code; AND

7 (3) AN AMOUNT IS ADDED TO OR SUBTRACTED FROM FEDERAL
8 ADJUSTED GROSS INCOME TO REFLECT THE DETERMINATION OF THE MAXIMUM
9 AGGREGATE COSTS THAT THE TAXPAYER MAY TREAT AS AN EXPENSE UNDER § 179
10 OF THE INTERNAL REVENUE CODE FOR ANY TAXABLE YEAR WITHOUT REGARD TO
11 THE CHANGES MADE TO THAT SECTION BY THE FEDERAL JOBS AND GROWTH TAX
12 RELIEF RECONCILIATION ACT OF 2003 (P.L. 108-27).

13 10-310.

14 In addition to the modifications under §§ 10-305 through 10-309 of this
15 subtitle, to determine Maryland modified income the federal taxable income of a
16 corporation shall be adjusted as provided for an individual under § 10-210.1 of this
17 title.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2004, and shall be applicable to all taxable years beginning after December 31,
20 2002.